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July 29, 2002

VIA COURIER

Department of Transportation
United States Coast Guard
Document Management Facility
Room PL-401
400 Seventh Street SW
Washington, D.C. 20590-0001

Re: Notice of Proposed Rulemaking
Docket No. USCG 1998-3884 -10

Dear Sir/Madam:

Enclosed please find the original and one copy of the "Comments of El Paso Global LNG Company" on the Notice of Proposed Rulemaking in Docket USCG-1998-3884. Also enclosed please find two additional copies to be date stamped and returned with our case clerk. Thank you in advance for your assistance in this matter.

Sincerely,



Marilyn Doria
Counsel for El Paso Global LNG Company

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**UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF TRANSPORTATION,
UNITED STATES COAST GUARD**

Deepwater Ports

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Docket No. USCG-1998-3884

COMMENTS OF EL PASO GLOBAL LNG COMPANY

By notice dated May 30, 2002, 67 Fed. Reg. 37920 (2002), the United States Coast Guard ("USCG" or "Coast Guard") issued a notice of proposed rulemaking ("NPRM") to amend the regulations governing deepwater ports, 33 CFR Parts 148, 149 and 150. The NPRM seeks comments on proposals intended to implement the provisions of the Deepwater Port Modernization Act (Public Law 104-324 Title V, Sec. 501-508, October 19, 1996), to update the regulations implementing the Deepwater Port Act of 1974 ("DWPA"), to exclude unnecessary regulations, to ensure that the DWPA regulations are consistent with those for similar structures and, finally, to improve the competitiveness of current deepwater ports and encourage the construction of additional deepwater ports.

El Paso Global LNG Company ("El Paso Global LNG") submits these comments on the NPRM. El Paso Global LNG's comments address the proposed changes within the context of pending legislation that would extend the DWPA to natural gas deepwater ports, including those that would receive liquefied natural gas ("LNG").

I. Introduction

The Maritime Transportation Antiterrorism Act of 2002, H.R. 3983, is currently pending before the Congress. This bill provides measures calculated to enhance the security of vessels, ports, and other facilities. Importantly, if passed, the legislation will extend the jurisdiction of the DWPA to natural gas deepwater ports. Differing versions of the amendments to the DWPA included in the proposed legislation are currently under consideration by a conference committee which is expected to resolve those differences when Congress reconvenes in September. Passage of the agreed-upon amendments is expected to occur shortly thereafter.

El Paso Global LNG is a subsidiary of the El Paso Corporation, a publicly held Delaware corporation that holds ownership interests in numerous energy-related subsidiaries, which engage in the independent generation of electricity; power marketing; interstate and intrastate transportation and storage of natural gas; natural gas gathering, processing, and marketing; and the worldwide development and ownership of energy projects. El Paso Global LNG is developing projects in which LNG from foreign sources will be transported by vessels to offshore locations within United States jurisdiction, revaporized onboard the vessels and delivered, via buoys, to offshore pipelines for redelivery to domestic markets. Under the pending legislation, those offshore buoys and pipelines would fall under the Coast Guard's jurisdiction as deepwater ports. While the NPRM issued on May 30, 2002 is not specifically intended to apply to natural gas deepwater ports, El Paso Global LNG is submitting these comments because the proposed rules nevertheless will affect the development and operation of such ports should the pending legislation be enacted into law.

Although fashioning regulations that could be made applicable to natural gas deepwater ports is unusual since the legislation extending DWPA jurisdiction to such ports is still pending,

no party will be prejudiced by either the Coast Guard-proposed changes that are supported herein by El Paso Global LNG, or those changes that El Paso Global LNG is itself proposing. Moreover, initiating the process now of fashioning the DWPA regulations so that they can be applied to natural gas deepwater ports will promote both the national interest in development of new energy sources and administrative efficiency.

With respect to new energy sources, LNG is an important addition to domestic natural gas supplies. The reserve base for domestic natural gas is declining while the unit cost of production is increasing. In contrast, the costs for LNG have been declining over the past several years. When coupled with the growth in demand in the U.S. for natural gas, especially in coastal markets that account for more than fifty percent of the increased demand, LNG increasingly is assuming significance as an energy supply source. Moreover, because of their offshore location away from any onshore port areas, natural gas deepwater ports contribute to national security. That is reflected by the fact that the proposed inclusion of natural gas deepwater ports within the jurisdiction of the DWPA is being considered by the Congress as a part of the Maritime Transportation Antiterrorism Act. In this regard, there appears to be recognition of the need for expeditious implementation of the legislation inasmuch as one of the amendments being considered by the conferees permits the Coast Guard to adopt interim rules to implement the legislation. Those interim rules would thus facilitate the expeditious construction and operation of natural gas deepwater ports. In such circumstances, adoption of regulations supported by El Paso Global LNG in this rulemaking proceeding will serve as a first step in enabling the existing DWPA regulations to be applied to natural gas deepwater ports.

El Paso Global LNG's comments on the rules changes proposed by the Coast Guard are offered with that objective in mind, while also recognizing the possibility, although remote, that

the pending legislation will not be enacted into law. Thus, the rules changes supported by El Paso Global LNG will continue to be in the public interest without regard to whether the pending legislation becomes law. Additionally, El Paso Global LNG is proposing other changes that will aid in promoting the development of natural gas deepwater ports. Those changes, however, like those set forth in the NPRM, will also be in the public interest without regard to whether the pending legislation is enacted.

II. Communications

Please include the following individuals on the official service list in this docket:

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III. Comments

A. Comments on Changes Proposed in the NPRM

Cites are to current regulatory provisions.

1. 33 CFR 148.3 Definitions

By revising the regulations' definitions to reflect the current statutory definitions, the regulations will dovetail smoothly with the authorizing statute. However, because the statutory definitions, including the definition of deepwater port, will change as a result of the proposed legislation, El Paso Global LNG notes that it may become necessary in the near future to modify these proposed definitions or to add additional terms to this section. For example, the current definition of deepwater port mirrors the statutory definition in referring specifically to fixed or floating structures used for the transportation, storage and further handling of oil, and would

have to be revised to include structures used for the transportation, storage or further handling of natural gas. Similarly, the current definition of single point mooring (“SPM”) refers to the transfer of oil between a tanker and an undersea pipeline, even though this technology may also be used to facilitate such transfers of natural gas. If the statute is revised to include natural gas deepwater ports, this definition will have to be expanded.

However, another definition may be modified at the present time to accommodate possible future changes in the DWPA without loss of accuracy. Such modification would also not affect the applicability of related regulatory provisions to deepwater ports under the current version of the DWPA in the event that the pending amendments are not enacted. A “pumping platform complex,” as currently defined, means a platform or series of interconnected platforms with one or more of four listed features or capabilities. El Paso Global LNG recommends that this definition be revised to indicate that it does not include ports comprised of one or more SPMs. El Paso notes that the portions of the DWPA regulations specifically applicable to pumping platform complexes primarily address safety and environmental issues that are associated with manned, floating platforms, rather than unmanned SPMs. This definitional change would therefore clarify that these regulatory sections are not applicable to deepwater ports that are comprised of one or more SPMs, such as contemplated for some LNG deepwater ports. In this manner, the recommended change is consistent with the Coast Guard’s regulatory objectives of eliminating unnecessary regulations and encouraging the construction of additional deepwater ports, including those based on different technologies or designs than contemplated when the DWPA was originally enacted in 1974.

2. 33 CFR 148.109(e)(6)(i) and (ii), 148.109(e)(7), and (e)(9) through (e)(13), and 148.323(b)(6) on Financial Information

El Paso Global LNG supports the removal of the financial information requirements as consistent with the Deepwater Port Modernization Act of 1996.

3. 33 CFR 148.109(f) on Reporting the Experience of the Applicant's Contractors

El Paso Global LNG supports the removal of reporting requirements for extraneous information. Therefore, El Paso Global LNG supports the proposed provision requiring information, including information about experience and qualifications, only about the affiliates or engineering firms that the applicant has selected or with which the applicant has entered into contracts for the design or construction of the deepwater port or a significant portion thereof.

4. 33 CFR 148.109(t) on the "Guide to Preparation of Environmental Analyses for Deepwater Ports" and Appendix A

El Paso Global LNG supports the revisions to this section, which clarify that the standards for environmental analysis are derived from the National Environmental Policy Act (Part I of the Environmental Review described in Appendix A addresses environmental impact analysis) as well as the DWPA (Part II of the Environmental Review described in Appendix A requires demonstration that measures to prevent or minimize adverse impacts will be taken). However, El Paso Global LNG suggests that Appendix A be revised to further clarify that the Phase I analysis of environmental impacts will include consideration of the statutory criteria established in Section 6 of the DWPA, at 33 U.S.C. § 1505(a).

The proposed text of Appendix A states that these statutory criteria are consistent with NEPA, but does not explain the relationship between the analysis of these criteria and the Phase I environmental analysis. The latter analysis is to be based on the federal environmental impact statement required by Section 148.109(t) and other necessary sources, and covers the extent and importance of the project's probable environmental impacts. In the current regulations, the environmental review criteria for the analysis include, as primary areas of concern, the DWPA criteria. The proposed regulation, therefore, suggests that the DWPA analysis is separate from the Phase I environmental analysis, including the environmental impact analysis required under NEPA.

In the interests of clarifying this apparent change between the existing and proposed regulations, and simplifying documentation requirements, El Paso Global LNG recommends that the final language of Appendix A specify that the DWPA criteria are to be evaluated as part of the Phase I environmental analysis. A single document which serves as the environmental assessment or environmental impact statement required by NEPA would therefore also satisfy Section 6 of the DWPA. This recommended change will promote the Coast Guard's interest in promoting deepwater port development by simplifying the application process without changing substantive requirements, even if the DWPA is not amended to include natural gas ports.

5. 33 CFR 148.507(c) and (d) on Reports of Site Evaluation and Pre-construction Testing

El Paso Global LNG supports the requirement of a final report only. The deletion of the preliminary report requirement alleviates unnecessary administrative burdens on the applicant while still providing the information necessary for the evaluation of the project.

6. 33 CFR 149.209, 150.119, and 150.121 on Classification Society Certificates for Single Point Moorings

El Paso Global LNG supports the change in the requirements for meeting established standards for SPMs, allowing the use of different (non-ABS) standards for SPMs if found acceptable by the Commandant.

7. 33 CFR 149.703 through 149.775 on Aids to Navigation

El Paso Global LNG supports the revised and updated requirements for aids to navigation on deepwater ports. However, not all future deepwater ports will necessarily include structures or service platforms at or above the surface, so that the current and proposed requirement for lighting and marking may be impracticable for these facilities. Certain SPMs and associated hose string may be submerged to depths of 100 feet or more below surface. El Paso Global LNG suggests that these requirements be revised to provide that surface lights and marking for such submerged SPMs are not required.

8. 33 CFR 150.105, 150.106, and 150.107 on the Operations Manual

El Paso Global LNG supports the revisions to the requirements for the operations manual, although El Paso Global LNG notes that if the pending legislation passes, and as future technology develops, certain requirements for the Operations Manual will have to be modified to reflect their applicability to and appropriateness for natural gas facilities, which may include alternative types of structures that do not involve a floating platform, buoy or SPM at or above sea level and that may be operated remotely rather than by *in situ* personnel.

Furthermore, because LNG deepwater ports will involve different design, construction and operational issues than oil deepwater ports, El Paso Global LNG recommends that certain additional requirements, such as those involving personnel roles and qualifications, fire and

emergency response equipment, and certain vessel navigation requirements related to personnel responsibilities, be transferred to the operations manual. Consistent with the similar changes already proposed in this rulemaking, this will allow applicants to tailor the operations manual to the actual operating parameters of the intended port facility, rather than requiring the applicant to document compliance with requirements that do not promote the attainment of desirable safety or environmental management objectives, because they are, as a practical matter, inapplicable to the type of facility proposed.

El Paso Global LNG notes that technological advances in the energy business, combined with national energy policy goals, make it likely that future deepwater ports will include a broader range of facility designs and operations than envisioned when the DWPA was enacted. For this reason, El Paso Global LNG believes that the revised DWPA regulations should incorporate additional flexibility with regard to personnel and emergency or safety requirements, while continuing to hold operators responsible for achieving safety and operational goals. For example, the personnel positions and qualifications described in Part 150 may be necessarily different for natural gas deepwater ports, or even for future oil deepwater ports, depending on design characteristics. Decisions about necessary personnel and qualifications should therefore be made by the operator or licensee, in consultation with the Coast Guard, on a case-by-case basis rather than prescribed by regulation.

Whether or not the pending DWPA amendments are enacted, El Paso Global LNG believes that developing personnel requirements and safety and environmental management provisions on a case-by-case basis, and documenting such provisions in the operations manual, will allow operators and licensees to address changes over time in deepwater port technologies and design parameters in the operations manual without the need for repeated regulatory

revisions. Consistent with the Coast Guard's objectives in this rulemaking, this will enhance the competitiveness of deepwater ports, and encourage further development of such ports in the future, as well as eliminate unnecessary regulations.

9. 33 CFR Part 150, Subpart C, Personnel

While El Paso Global LNG supports stringent qualifications for all personnel on deepwater ports, El Paso Global LNG notes that the qualifications here are tied to oil operations and may need to be modified to the extent that natural gas deepwater ports are covered under the DWPA. This section of the regulations may require further revisions to reflect such differences if H.R. 3983 is enacted.

10. Safety and Environmental Management Program

The NPRM Preamble invites comments on the voluntary use of safety and environmental management programs ("SEMPs") as alternatives to certain regulations on workplace safety and health. El Paso Global LNG believes that requiring licensees to develop and adopt SEMPs based on the API RP 75 model would allow development of safety and environmental management protocols that would reflect the nature and design of deepwater ports. In particular, if the DWPA is amended to include LNG ports, many of the existing safety and health requirements under Parts 149 and 150 of the regulations could be inappropriate for an LNG port. For example, Subpart D of Part 149 provides safety requirements for deepwater ports based on the assumption that the port structure will be a manned platform. Such requirements could be inapplicable to an LNG facility, given likely design and operational differences. Other requirements that could be addressed in a SEMP include provisions in Subpart F of Part 150, dealing with emergency and fire equipment.

MMS adopted the SEMP approach in 1994 in order to improve safety and environmental protection at offshore facilities through the development of flexible, performance-based safety regulations. MMS has concluded, based on recent implementation surveys of industry, that compliance with this approach has been positive and is growing. Based on this experience, El Paso Global LNG believes that use of a voluntary SEMP program for deepwater ports would be similarly successful in reducing safety and environmental incidents. El Paso Global LNG also suggests that if the Coast Guard decides to adopt the SEMP approach, this approach should be incorporated into the required elements of the operations manual.

11. Security and Terrorism

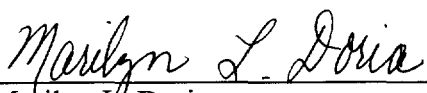
El Paso Global LNG agrees that the port security plan should be an element of the operations manual, and further supports the proposal that such plans should be developed on a case-by-case basis in consultation with the Coast Guard.

IV. Conclusion

El Paso Global LNG generally supports, with the modifications suggested herein, the proposed changes in the DWPA regulation as consistent with the 1996 amendments to the Act, and as an improvement in the procedural and substantive technical requirements for deepwater port construction and operation. El Paso Global LNG respectfully requests that its comments be considered in the course of this rulemaking. Because the current and proposed regulations apply only to oil deepwater ports, El Paso Global LNG would like to reserve its right to submit additional comments and recommendations for further revision in the event that the Maritime Transportation Antiterrorism Act of 2002 is enacted by Congress.

Respectfully submitted,

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Dated: July 29, 2002